

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

JUSTIN BARKER
Plaintiff

CASE NO. 1:21-cv-4419

-vs-

JUDGE DRELL

**LOUISIANA SCHOOL FOR MATH
SCIENCE & THE ARTS**
Defendant

MAGISTRATE JUDGE PEREZ-MONTES

JUDGMENT ON REPORT AND RECOMMENDATION

For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein, and after independent (de novo) review of the record including the objections filed herein, and having determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that Barker's Motion to Compel (ECF No. 37) IS GRANTED and Defendant is to provide complete disclosure of Horton's cell phone records for December 14 and 15, 2022, without redactions as to the contents of the records of any messages or calls between Horton and Allen, Key, and/or Kidd. Disclosure shall occur within 15 days of this Judgment. Further;

IT IS ORDERED that Barker's Motion for Sanctions (ECF No. 37) IS GRANTED and an adverse inference is ENTERED, pursuant to Rule 37(e)(2), that the deleted texts would have shown that: (1) Dr. Horton instructed the LSMSA employees how they were to testify in their depositions; (2) the LSMSA employees – Dr. Key, Dr. Allen, and Sheila Kidd – testified in their depositions in accordance with those instructions; and (3) the testimony in their depositions reflects

the instructions given them by Dr. Horton. The adverse inference may be communicated to the jury as well.

IT IS ORDERED that Barker's Motion for Sanctions (ECF No. 37) IS GRANTED for the destruction of Sheila Kidd's investigatory notes, and the Court will presume that the lost information was unfavorable to LSMSA and will instruct the jury that it may or must presume the information was unfavorable to LSMSA.

IT IS ORDERED that Barker's Motion for Attorney Fees (ECF No. 37) IS GRANTED. Plaintiff has 15 days to document the claim for attorney's fees and costs. Defendant has 15 days from the Plaintiffs submission to file a response to Plaintiff's Bill of Costs.

THUS ORDERED AND SIGNED at Alexandria, Louisiana this 17th day of April 2024.


DEE D. DRELL, SENIOR JUDGE
UNITED STATES DISTRICT COURT